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THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Charles G. FISHER et al.

Confirmation No.: 6906

Patent No.: 7,016,871 B1

Application No.: 09/625,048

Patent Date: March 21, 2006

Filing Date: July 25, 2000

For: SYSTEM FOR AND METHOD OF
VARIABLE ANNUITY CONTRACT
ADMINISTRATION

Attorney Docket No.: 84417-4001

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.322

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Patentees hereby respectfully request the issuance of a Certificate of Correction in connection with the above-identified patent. The corrections are listed on the attached Form PTO-1050. The corrections requested are as follows:

Column 4:

Line 32, before "Routine of the Annuity Module of FIG. 2;" change "claim" to -- Claim --.

Column 6:

Line 37, before "Routine 36", change "claim" to -- Claim --.

Column 7:

Line 14, before "A flowchart of the Payment Processing Routine 24 is", change "24," to -- 24. --.

Line 51, before "Referring to FIG. 12, the M&E Routine first", change "issuer" to -- issuer. --.

Column 9:

Line 45, after "value of the contract is paid out 124. A", change "conformation" to -- confirmation --.

Certificate
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of Correction

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Column 10:

Line 2, before "Routine 36 is used to process any", change "claim" to -- Claim --.

Line 3, after "A flow chart of the Death", change "claim" to -- Claim --.

Line 25, after "(1) a", change "fife" to -- life --.

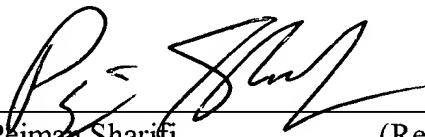
Line 34, after "between the various", change "find" to -- fund --.

Support for the above changes appear in the original specification as filed on July 25, 2000.

The requested corrections are for errors that appear to have been made by the Office. Therefore, no fee is believed to be due for this request. Should any fees be required, however, please charge such fees to Winston & Strawn LLP Deposit Account No. 50-1814. Please issue a Certificate of Correction in due course.

Respectfully submitted,

8/11/06
Date


Pejman Sharifi (Reg. No. 45,097)
For: Allan A. Fanucci (Reg. No. 30,256)

WINSTON & STRAWN LLP
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212-294-2603

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**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**

PATENT NO.: 7,016,871 B1
DATED: March 21, 2006
INVENTORS: Fisher et al.

Page 1 of 1

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withdrawal penalties apply are features of variable annuity contracts which can limit the flexibility of the contractowner. For example, in the case of a variable annuity that has a bonus investment credit and that pays commissions, typical withdrawal charges would range from 6% to 9% of the amount withdrawn in the first year and would apply for a period from six to ten years. The withdrawal charges would decrease over the period of time during which charges apply.

Although there are many different types of variable annuity contracts in the marketplace, there has not been a variable annuity contract designed to pay a bonus investment credit to the contractowner where (1) the withdrawal charge percentages in all contract years are less than the bonus investment credit percentage and (2) commissions are paid to distributors. Currently, variable annuity contracts that pay commissions and have a bonus investment credit also have withdrawal charge percentages that are significantly greater than the bonus investment credit percentage. There are also commission-paying variable annuity contracts that have lower withdrawal charges but that do not have a bonus investment credit. Neither of these options would be as attractive to a prospective contractowner as a variable annuity that includes both a bonus investment credit and withdrawal charges which are not greater than the bonus investment credit.

It is clear from the foregoing discussion that variable annuity contracts are complex insurance vehicles. Because of this complexity, it is desirable to provide a system and method which can be used to facilitate the administration of variable annuity contracts expeditiously and efficiently. Additionally, because of the large amount of competition among issuers in the variable annuity market, it is desirable to provide a system for and method of administering variable annuity contracts which are more efficient and consumer-oriented than other variable annuity contracts in order to attract more would-be contractowners and thereby gain a competitive advantage in the marketplace.

SUMMARY OF THE INVENTION

Accordingly, it is an object of the present invention to provide a system for and method of administration of variable annuity contracts. It is a further object of the present invention to provide a system for and method of administration of variable annuity contracts wherein the variable annuity contract is more efficient and more consumer-oriented than other variable annuity contracts in the marketplace. It is a further object of the present invention to provide a system for and method of administration of variable annuity contracts wherein the variable annuity includes a bonus investment credit, withdrawal charge percentages which are less than or equal to the bonus investment credit percentage, and level asset-based compensation to distributors. Other objects will become apparent from the following discussion.

The foregoing and other objects of the present invention are achieved through a novel and non-obvious system for and method of administering variable annuity contracts wherein each variable annuity contract includes a bonus investment credit, withdrawal charge percentages which are less than or equal to the bonus investment credit percentage in all contract years, and a level asset-based compensation structure. In accordance with one aspect of the present invention, a system is provided which includes memory means for storing variable annuity contract data and pro-

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cessing means for administering all aspects of the variable annuity contract from issuance to payout based on the stored contract data.

The present invention will now be described in greater detail, with frequent reference being made to the drawings identified below in which identical numerals represent identical elements.

BRIEF DESCRIPTION OF THE DRAWINGS

In the accompanying drawings:

FIG. 1 is a block diagram of a system in accordance with one embodiment of the present invention;

FIG. 2 is a block diagram of an Annuity Module in accordance with one embodiment of the present invention;

FIG. 3 is a flow chart illustrating the operation of the Contract Issue Routine of the Annuity Module of FIG. 2;

FIG. 4 is a flow chart illustrating the operation of the Payment Processing Routine of the Annuity Module of FIG. 2;

FIG. 5 is a flow chart illustrating the operation of the Compensation Routine of the Annuity Module of FIG. 2;

FIG. 6 is a flow chart illustrating the operation of the Free Look Routine of the Annuity Module of FIG. 2;

FIG. 7 is a flow chart illustrating the operation of the Transfer Routine of the Annuity Module of FIG. 2;

FIG. 8 is a flow chart illustrating the operation of the Surrender Routine of the Annuity Module of FIG. 2;

FIG. 9 is a flow chart illustrating the operation of the Anniversary Routine of the Annuity Module of FIG. 2;

FIG. 10 is a flow chart illustrating the operation of the Death claim Routine of the Annuity Module of FIG. 2;

FIG. 11 is a flow chart illustrating the operation of the Payout Routine of the Annuity Module of FIG. 2; and

FIG. 12 is a flow chart illustrating the operation of the M&E Routine of the Annuity Module of FIG. 2.

Claim

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT

The following description is presented to enable any person of ordinary skill in the art to practice the present invention. Various modifications to the preferred embodiment will be readily apparent to those of ordinary skill in the art, and the principles defined herein may be applied to other embodiments and applications without departing from the spirit and scope of the present invention and appended claims. Thus, the present invention is not intended to be limited to the embodiment shown, but is to be accorded the broadest scope consistent with the principles and features disclosed herein.

As discussed above, the present invention relates to a system for and method of administering variable annuity contracts. In accordance with the present invention, a variable annuity contract includes a bonus investment credit, withdrawal charge percentages less than or equal to the bonus investment credit percentage, and level asset-based compensation paid to the distributor. While the amounts of the bonus investment credit percentage, withdrawal charge percentages and compensation percentage will vary from issuer to issuer depending on in-house financial and actuarial calculations, in the preferred embodiment the bonus investment credit will be 3% of the premium paid in the first contract year; the withdrawal charges will be 3% of the withdrawal value in the first contract year, 2% in the second contract year, 1% in the third contract year, 1% in the fourth contract year, and 0% for the fifth year and after, and

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premium payments made in the second contract year and later will not be subject to a withdrawal charge; and the compensation structure will be 1% of the premium paid in the first contract year and 1% of the accumulated account value of the contract for each year thereafter payable on a quarterly basis. Because of the combination of level (i.e., the same percentage in each contract year) asset-based compensation with the bonus investment credit, it is possible to provide contractowners with withdrawal charge percentages less than or equal to the bonus investment credit percentage in all contract years, thereby enabling contractowners to fund and manage their retirement needs in an efficient manner.

A variable annuity contract which may be used in accordance with the present invention is attached hereto as Appendix A. However, those of ordinary skill in the art will appreciate that the present invention is not limited to use in connection with the variable annuity contract attached hereto as Appendix A, but may be used in connection with any variable annuity contract, as long as (1) there is a bonus investment credit, (2) the withdrawal charge percentages are less than or equal to the bonus investment credit percentage in all contract years, and (3) the compensation to distributors is level and asset-based. The copyright in the variable annuity contract attached hereto as Appendix A is owned by The Guardian Life Insurance Company of America and no license is granted herein to make copies of the variable annuity contract except as an appendix to a United States patent which issues hereon.

Referring to FIG. 1, a block diagram of a system in accordance with one embodiment of the present invention is shown. The system includes a central processing unit (CPU) 2 for controlling the operation of the system; input means 4 operatively coupled to the CPU 2, such as a keyboard, floppy drive, tape drive, computer network interface, etc., or any combination thereof, for inputting variable annuity contract data into the system; control means 5, such as a keyboard and/or mouse, for allowing a user to control the operation of the system; a monitor 6 and printer 8 for system output; data storage means 9, such as a hard disk drive or tape drive or other memory means, operatively coupled to the input means 4 and CPU 2, including an Annuity Database 10 for storing variable annuity contract data for use by the Annuity Module 20 relating to administration of the contracts. This contract data includes but is not limited to the bonus investment credit percentage of the contract, the withdrawal charge percentages of the contract, and the asset-based compensation percentage. The Annuity Database 10 is also used for storing data relating to each particular variable annuity contract administered by the system, including but not limited to, the name of the contractowner, the date of birth of the contractowner, the sex of the contractowner, the address of the contractowner, the name of the annuitant, the date of birth of the annuitant, the sex of the annuitant, the address of the annuitant, the contract purchase date, the amount of premium paid by the contractowner and the dates of payment thereof, the beneficiary named in the contract, the selected mutual fund subaccount allocations of the annuity, the number of fund units for each mutual fund subaccount, the payout option selected by the contractowner including the annuitization date, whether a rider is chosen and what the terms of the rider are, and data relating to any events associated with each contract, such as data relating to any withdrawal made by a contractowner. The contractowner alone has the right to receive all benefits of the annuity contract and to exercise all the rights that the annuity contract grants. The annuitant, who may or may not be the

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contractowner, is designated in the application for the annuity contract. All monthly annuity payments are based on the sex and age of the annuitant. The death benefit of the annuity contract is also payable on the death of the annuitant.

The data storage means 9 further includes an Annuity Module 20 which includes instructions to be executed by the CPU 2 for administering annuity contracts based on data stored in the Annuity Database 10. The system also includes a random-access-memory (RAM) 11 which may be used in addition to or in combination with the data storage means 9 to store contract data; and a communications interface 13, such as a modem or network card, which can be used to communicate with other computers and computer networks.

In practice, the system will typically take the form of a personal computer running MS-DOS or Windows, but may take the form of a workstation, a mainframe computer, a mid-range computer, or any other apparatus that can be configured to perform the functions described herein. The software described herein, including the Annuity Module 20, may be written in any programming language that is compatible with the system.

Referring to FIG. 2, a block diagram of the Annuity Module 20 is provided. The Annuity Module 20 includes a Contract Issue Routine 22 which is used to issue new annuity contracts; a Payment Processing Routine 24 which is used to process premium payments; an M&E Routine 25 which is used to assess mortality and expense risk charges and administrative charges on each contract on a daily basis; a Compensation Routine 26 which is used to calculate compensation payments; a Free Look Routine 28 which is used to process contract returns; a Transfer Routine 30 which is used to transfer annuity monies between mutual fund subaccounts; a Withdrawal Routine 32 which is used to calculate withdrawal charges when money is withdrawn from an annuity by a contractowner; an Anniversary Routine 34 which is used to calculate annual contract fees; a Death claim Routine 36 which is used to calculate the death benefit and pay the beneficiary when the annuitant dies; and a Payout Routine 38 which is used to calculate and make annuity payments once the contract is annuitized.

Referring to FIG. 3, a flow chart of the Contract Issue Routine 22 is provided. The contract issuance process begins when a new application has been received from a prospective contractowner 40. Upon receipt of this application, various data is entered into the system 42 via the input means 4, including, but not limited to, the name of the contractowner, the address of the contractowner, the date of birth of the contractowner, the sex of the contractowner, the name of the annuitant, the address of the annuitant, the date of birth of the annuitant, the sex of the annuitant, the premium paid by the contractowner, the contract beneficiary, the selected fund subaccount allocations of the annuity, what riders, if any, have been chosen, and whether a 1035/Trustee to Trustee transfer is involved. The data will typically be input into the system by hand via a keyboard, although the information may be electronically uploaded to the system via floppy disk, tape drive, computer network, etc. The application data is stored in the Annuity Database 10.

Following the input and storage of data 42, the Contract Issue Routine 22 determines from the application information whether a 1035/Trustee to Trustee transfer is involved 44. A 1035/Trustee to Trustee transfer is an exchange of an annuity contract from one insurer for a new contract with a second insurer. A 1035 exchange involves non-qualified money, and a Trustee to Trustee exchange involves qualified money such as an IRA or pension plan. If a 1035/Trustee to Trustee transfer is involved, a communication, either elec-

Claim

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tronically or non-electronically, is initiated with the company that currently has the contractowner's money 46. The system then waits until the money has been received 48. Once the money has been received, either from the contractowner or from another company, it is applied to the contractowner's account and recorded in the Annuity Database 50. A new contract is then issued 52 and delivered to the contractowner by mail or other means 54. The contract issue event is then recorded in the Annuity Database 10 along with the contract issue date 55.

Once a new contract has been issued, the contractowner can make premium payments. As indicated above, these payments are processed by the Payment Processing Routine 24. A flowchart of the Payment Processing Routine 24 is provided in FIG. 4. Upon receipt of a payment, the Payment Processing Routine 24 first determines if the payment is received in the first contract year 56. If the payment is received in the first contract year, the amount of the bonus investment credit to be credited to the contract is calculated 58 based on the percentage figure stored in the Annuity Database 10. As indicated above, this bonus investment credit is preferably 3% of the premium payment. Once the Payment Processing Routine 24 has calculated the bonus amount 58, the bonus amount is allocated to the various mutual fund subaccounts selected by the contractowner 60. The fund net asset values (NAVs) for each mutual fund selected by the contractowner are then retrieved, typically from the computer system of an organization which provides these values on a daily basis via the communications interface 13, and the number of fund units for each selected mutual fund subaccount is calculated by dividing the NAV for each mutual fund into the corresponding allocated bonus amount and the subaccount information in the Annuity Database 10 is updated accordingly 64. The Payment Processing Routine 24 then electronically allocates the premium paid into the various mutual fund subaccounts 66. After receiving the fund NAVs 68, the Payment Processing Routine calculates the number of fund units for the premium that has been paid and updates the subaccount information in the Annuity Database 70. The final step of the Payment Processing Routine 24 is to produce a confirmation statement 72 on the printer 8, which is mailed to the contractowner.

With respect to the M&E Routine 25, it is necessary in the variable annuity industry for issuers to assess a daily mortality and expense risk ("M&E") charge to each contractowner. In addition, a number of companies assess an administrative charge to each contractowner. The mortality and expense risk charge and the administrative charge are typically a small percentage of the accumulated account value, typically on the order of 1.25% to 1.85% depending on the issuer. Referring to FIG. 12, the M&E Routine first determines the accumulated account value 166 by multiplying the number of fund units for each mutual fund subaccount as recorded in the Annuity Database 10 by the corresponding updated daily NAV. The results are then summed to arrive at a total account value. A determination is then made as to what riders, if any, are included in the contract 168. The appropriate mortality & expense risk charge and administrative charge are then calculated as a percentage of the accumulated account value and deducted from the account value of the contract 170-176.

As indicated above, the variable annuity has associated level asset-based compensation which is paid out to the distributor that sold the contract to the contractowner. This compensation is calculated and paid by the Compensation Routine 26. A flow chart of the Compensation Routine 26 is shown in FIG. 5. Upon activation, the Compensation Rou-

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tine 26 will first determine whether or not the contract is in the first year 74. If the contract is in the first year, the commission is calculated as 100 basis points (i.e., 1%) of the premium paid in the first contract year 76. If the contract is not in the first year, then asset-based compensation is paid at the end of each contract quarter. Therefore, the system will have to determine if it is the end of a contract quarter 78. If it is not the end of a contract quarter, no compensation is paid and the Compensation Routine 26 is terminated. If it is the end of a contract quarter, the accumulated value of the contract needs to be calculated 80. Since asset-based compensation is paid on a quarterly basis, the compensation is calculated as the accumulated value of the contract multiplied by 25 basis points ($\frac{1}{4}$ of 100 basis points) on the quarterly anniversary 82. If compensation is being paid, a compensation statement 84 and compensation check 86 are printed out and mailed to the person or entity receiving the compensation. The compensation payment is then recorded in the Annuity Database 87.

All variable annuity contracts have an associated free look period. During this period, which typically runs ten days from the date of contract issuance, the contractowner may return the contract for full reimbursement. The Free Look Routine 28 is used to process contract returns during the free look period. A flow chart of the Free Look Routine 28 is provided in FIG. 6. The first step in the Free Look Routine 28 is to check the Annuity Database 10 to determine whether the free look provision has been exercised 88 by the contractowner. If it has not, then the Free Look Routine 28 is terminated. If it has been exercised, then a determination of how much money is returned to the contractowner is made. There are two different ways to determine how much money is to be returned: (1) the return of value method and (2) the return of premium method. The method used is determined by the jurisdiction in which the contract was issued as the applicable laws vary from state to state 90. If the state is a return of premium state, the premium amount that was paid in is returned to the contractowner 92.

If, on the other hand, the state is a return of value state, then the accumulation value of the contract on the day the free look option is exercised minus the value of any bonus investment credits plus any mortality and expense risk charges that may have been charged on the bonus amount is the value returned to the contractowner. The Free Look Routine 28 thus determines any mortality and expense risk charges that were charged on the bonus amount 94 and generates a check for the return amount 96. The check and a confirmation statement are then mailed out to the contractowner 98. Any commissions that were paid will also have to be reclaimed from the distributor 100. The account will then be closed out and no additional processing will be done 102. The account closing is recorded in the Annuity Database 10.

Because the annuity is a variable annuity, the contractowner can transfer money between the various mutual fund subaccounts. This functionality is handled by the Transfer Routine 30. A flow chart of the Transfer Routine 30 is provided in FIG. 7. If a request is received to transfer money 104 between fund subaccounts, the money is reallocated among the various funds as has been requested 106 and recorded in the Annuity Database 107. A confirmation statement will then be printed and mailed out to the contractowner 108.

Along with transferring money between various fund subaccounts, the contractowner can also withdraw all or some of the money in his/her account. However, as discussed above, there are charges associated with such with-

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drawal. The Withdrawal Routine 32 is used to process these withdrawal charges. A flow chart of the Withdrawal Routine 32 is provided in FIG. 8. Once the contractowner has provided written notification of his or her desire to withdraw money, a determination is made as to whether a premium paid during the second year or a subsequent year is being withdrawn 109. Withdrawals are made on a last in-first out basis in order to minimize the withdrawal charge. If so, then, in accordance with the preferred embodiment of the present invention, the payment is made to contractowner without any charges being assessed 118. Next, a determination is made as to whether the contract is in its first four years 110. In accordance with the preferred embodiment of the present invention, if the contract is in the first four years, a withdrawal charge is assessed against any money that is withdrawn which had been paid in the first contract year. The withdrawal charge percentage is determined with reference to the contract year 112. In the preferred embodiment, in the first contract year the withdrawal charge is 3% of the amount withdrawn. In the second, third, and fourth contract years the withdrawal charges are 2%, 1%, and 1 % of the amount withdrawn, respectively. The withdrawal charge is then deducted from the amount paid to the contractowner 114. In the preferred embodiment, in the first four contract years, the contractowner may make a partial withdrawal, without incurring a sales charge, of an amount equal to the greater of: (a) the excess of the accumulated value on the date of withdrawal over the net premium payments made in the first contract year, or (b) 10% of the total premium payments made during the first contract year, minus the aggregate amount of all prior partial withdrawals made during the current contract year.

Before the contractowner is paid, a determination is made as to whether the entire account value is being withdrawn 116. If the entire contract value is not being withdrawn, then the withdrawal amount is paid to the contractowner 118. If the entire accumulated value of the contract is being withdrawn, then the amount paid is further reduced. First, any premium taxes that have been paid by the insurance company are recovered 120. In addition, the appropriate contract fee is deducted from the proceeds 122 since contract fees are not charged until the end of the contract year. These two items, in addition to any withdrawal charges assessed, are deducted from the accumulated value, and the net surrender value of the contract is paid out 124. A confirmation statement and a check are then produced and mailed out 126 and the withdrawal event is recorded in the annuity database 127.

At the end of each contract year, a contract fee is charged to each contractowner. The Anniversary Routine 34 of the Annuity Module 20 is used to process this charge. A flow chart of the Anniversary Routine 34 is provided in FIG. 9. The first step is to determine whether a contract is at an anniversary 128 by checking the contract date in the Annuity Database 10. If it is not a contract anniversary, then the Anniversary Routine 34 is terminated. If the contract is at an anniversary, a determination is made as to whether the account value is less than \$100,000 130. If the account value is greater than \$100,000, then no annual fee is charged. If the account value is less than \$100,000, then an annual fee is charged 132. The account value threshold is discretionary and will vary from issuer to issuer. At every contract anniversary, a confirmation statement is also sent out to the contractowner 134 which details all account activity and shows the value of the account. The Annuity Database 135 is also updated to reflect any contract fee assessed.

confirmation

If the annuitant dies, the beneficiary will receive any death benefit. The Death claim Routine 36 is used to process any payments to the beneficiary. A flow chart of the Death claim Routine 36 is provided in FIG. 10. Once notification of the death of the annuitant is received by the system 136 and the Death Claim Routine 36 is activated, the type of death benefit is first determined by the system. If the contract includes an enhanced death benefit rider 138, the death benefit payable under this rider is calculated 140. The death benefit of the contract is then also calculated 142. The amount, if any, paid out is the greater of the death benefit of the contract and the death benefit of the rider 144. A confirmation statement and a check are then produced and mailed to the named beneficiary 146 and the payment is recorded in the Annuity Database 147.

Claim

Referring to FIG. 11, a flow chart of the Payout Routine 38, which is used to process payout options, is provided. Initially, a determination is made as to whether the contract has been annuitized by checking the Annuity Database 148. If it has not, then the payout routine is terminated. If, however, the contract has been annuitized, then the payout option selected by the contractowner 150 is determined from the Annuity Database 10. In accordance with the preferred embodiment of the present invention, the payout options are (1) a life annuity without a guaranteed period, (2) a life annuity with a 10 year guaranteed payout period, (3) an option where variable payments are made until age 100, and (4) a joint and survivor option that will make reduced payments to the survivor. However, the present invention is not limited to the foregoing payout options and, in fact, any other payout options may be used in accordance with the present invention.

life

While in the payout phase, money can be transferred between the various fund subaccounts. If the contractowner requests a transfer, the Transfer Routine 30 processes the request. Thus, if a request is received to transfer money and the request meets the rules of the contract 104, the money is reallocated among the various fund subaccounts as has been requested 106. Compensation is also paid to distributors for as long as annuity payments are being made. The Compensation Routine 26 processes these compensation payments.

fund

The payment amount based on the payout option selected is then calculated and a check and confirmation statement are generated and mailed to the annuitant 153 and the Annuity Database is updated 155. If the variable payments to age 100 has not been selected, the payout routine will continue in this manner until all payments have been made 156.

Typically, once the contract is annuitized the contract may not be surrendered. However, if the variable payments to age 100 option is chosen 154, an option to surrender the contract is preferably provided to the contractowner. If there is a request to surrender the contract 158, the present value of the remaining payments needs to be calculated 160. In addition, in the preferred embodiment, if the contract had annuitized in the first four contract years, sales charges were waived at the time of annuitization. The present value of the remaining payments is reduced by a portion of the sales charge that was waived. The amount that was waived thus needs to be calculated 162. The amount waived is then multiplied by the ratio of the number of payments that have not yet been paid to the total number of payments that were to be paid at the time of annuitization. This is the amount by which the present value of the remaining payments is reduced. A confirmation and a check for the surrender value are then produced and mailed out 164 and the Annuity Database is updated 165.

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